#### STATE OF VERMONT

### **HUMAN SERVICES BOARD**

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In re ) Fair Hearing No. 15,022
)
Appeal of )
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# **INTRODUCTION**

The petitioner appeals the decision by the Department of Social Welfare to include the income earned by her son in the computation of the household's Food Stamps. (1) The issue is whether the Department's action is in accord with the pertinent regulations.

# FINDINGS OF FACT

The facts are not in dispute. The petitioner has been an ongoing recipient of Food Stamps. Her household includes her son, who turned eighteen on May 1, 1997. The son is employed part time and attends high school. Prior to his turning eighteen the Department excluded his earned income from the computation of the household's Food Stamps. On

May 6, 1997, the Department notified the petitioner that effective June 1, 1997, her Food Stamps would decrease because her son's employment earnings would no longer be excluded from the income attributable to the household.

### **ORDER**

The Department's decision is affirmed.

# **REASONS**

Food Stamp Manual (FSM) § 273.1(a)(2) requires that parents living with their children 21 years of age or younger must be considered a single Food Stamp household.

F.S.M. § 273.9 includes the following provisions:

b. Household income shall mean all income from whatever source excluding only items specified in

paragraph (c)	of this sect	ion.
c		

7. The earned income. . . of children who are members of the household, who are students at least half time, and who have not attained their 18th birthday. . . .

There is no allowance anywhere in the regulations for the exclusion of earned income of any household member who is 18 or over. The above provisions are taken verbatim from provisions in the federal Food Stamp Regulations (see 7 C.F.R. § 273.9).

Although it is clear that the above provisions impact harshly on families like the petitioner's, in which the child with earnings has not yet finished school, there is no question that the Department's decision in this matter is in accord with those regulations. Therefore, the Board is bound by law to affirm the Department's decision. 3 V.S.A. §3091(d) and Fair Hearing Rule No. 17.

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1. A separate issue involving the son's eligibility for ANFC in light of his graduating high school by age 19 was severed from the instant decision and will be considered separately by the hearing officer after further hearing.